

A Q

BRIEF SKETCH

OF THE

TRIAL

OF

WILLIAM LLOYD GARRISON.

FOR AN ALLEGED LIBEL ON

FRANCIS TODD,

OF

NEWBURYPORT, MASS.

BOSTON:

PRINTED BY GARRISON AND KNAPP.

1834.

St. Louis, Mo.

Salem

5-15-63

Anti-Slavery

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P R E F A C E.

In the autumn of 1829, I associated myself with BENJAMIN LUNDY, to assist in the management of the *Genius of Universal Emancipation*, a periodical then printed in Baltimore, which he had conducted for a period of ten years in the midst of slavery, with a fearlessness, fidelity and zeal, that must ever place that remarkable man in the first rank of the benefactors of mankind.

During the time of our connection, (about six months,) the editorial responsibility principally rested upon myself, in consequence of the absence of Mr. Lundy. At that period, my vision as to the inexcusableness of slavery was clear, though otherwise as to the real character and tendency of the American Colonization Society. Since I have had the charge of the *Liberator*, I have been freely branded as a madman and incendiary, and my language has been deemed harsh and violent; but if any person will turn to a file of the *Genius of Universal Emancipation*, he will discover that I was not less denunciatory and fanatical in 1829, than I am in 1834. But the moral sense of the nation was then so torpid, that my most impassioned appeals and vehement rebukes excited little attention, and there was not sufficient interest in the subject of slavery among the people, to warrant the continuance of the weekly publication of the paper, after an experiment of six months. This fact is worthy of note, at the present inflammable state of the public mind. I can now rationally account for it. It was not until I began to expose the abominations of the American Colonization Society, that my life was sought, my character vilified, and my efforts denounced as incendiary. That Society has been the grand instigator of all the violent acts of the southern slaveholders, and of the populace in our principal cities, against those who dare to proclaim the truth of God with all fidelity, and who urge the duty of immediately breaking every yoke and letting every captive go free.

The following brief sketch of my trial for an alleged libel on Mr. FRANCIS TODD of Newburyport, was written and published during the time of my incarceration in Baltimore Jail. It is now republished, at the request of many of my friends, and in order to rebut the defamation of my enemies.

While I was held 'in durance vile,' for assailing a most cruel traffic in human flesh, my spirit was sustained, not only by a conscience void of offence, but by the sympathy and regard of wise and good men in all parts of the country. Up to that period, no single incident, connected with the subject of slavery, had ever excited so much attention, or elicited such a spontaneous burst of general indignation. As the news of my imprisonment became extensively known, and the merits of the case understood, not a mail rolled into the city but it brought me consolatory letters from individuals hitherto unknown to me, and periodicals of all kinds, from every section of the Union, (not even excepting the south,) all uniting to give me a triumphant acquittal—all severely reprehending the conduct of Mr. Todd—and all regarding my trial as a mockery of justice. Indeed, I was in danger of being lifted up beyond measure, even in prison, by excessive panegyric and extraordinary sympathy.

Various propositions were made to extricate me from my situation; but I was at length set at liberty by the generosity of ARTHUR TAPPAN, Esq. (a gentleman who was then a stranger to me, with whom I had never corresponded, but of whom I entertained the most exalted opinion, and to whom I am otherwise deeply indebted,) after an imprisonment of seven weeks precisely.

A portion of my time in prison was occupied in writing anti-slavery addresses, to be delivered to the people, on my enfranchisement. Accordingly, as soon as my chains were broken, I made a tour from Maryland to my native place in Massachusetts; and wherever I went, I was esteemed and treated as a martyr in a righteous cause. Nay, (the incident may seem trifling to some, but it deeply affected my heart, and it is a pleasing evidence of the general feeling at that time,) in consideration of my sufferings, a passage from New-York to Providence, in the steam-boat PRESIDENT, Capt. BUNKER, was kindly offered to me, gratuitously. Among those who were foremost in magnifying the injustice of my imprisonment, the value of my labors, and the hardship of my case, were the best friends of the American Colonization Society.

Now mark!—At that period, I had not publicly impeached the character, nor deprecated the tendency of that Society; but as soon as I began to do so, and its friends to consider me a formidable antagonist, then I was at once transformed into a blood-thirsty monster—then the most opprobrious epithets were too weak to describe my wickedness—then the southern men-stealers were duly notified of my incendiary proceedings, and urged to offer bribes for my destruction—then the fury of the mob was stirred up against me—then I became a lunatic, an incendiary, a calumniator, a fanatic, &c. &c.!!—By degrees, I was cast down from the high pinnacle of public admiration and sympathy, to which I had been raised by my imprisonment, into the lowest depths of public hatred and infamy. By degrees, the main supporters of the Colonization Society, finding they could triumph over me in no other way, began to assassinate my reputation, and rank me among the offscouring of the earth. At length, I was stigmatized as ‘a convicted felon;’ and this odious charge has been constantly urged against me in public addresses and disputations by those defamatory agents of the Society, Messrs. DANFORTH, FINLEY, &c. and by a host of other partisans. On my arrival in England, I found that Mr. ELLIOTT CRESSON had every where used the same language against me, in order to destroy the authority of my ‘*Thoughts on African Colonization*,’ and that he had succeeded, to a wide extent, in making British philanthropists believe that I had criminally violated the laws of my country, and was nothing but ‘a convicted felon.’

This brief statement contains much instruction, and I therefore make it for the benefit of all those who love the truth and abhor duplicity.

If there be any occurrence in my life, from which I draw sweet consolation, and of which I am truly proud, it is my imprisonment at Baltimore. I have no reason to lament it, nor to be ashamed of it. The verdict of the nation has once been given in my favor, and I shall receive a fresh acquittal and fresh applause hereafter. Most freely do I forgive those who have sought to uphold an unrighteous institution, by endeavoring to turn to the ruin of my character, that which I believe is eminently calculated to secure for it the respect, sympathy and affection of all upright men.

WILLIAM LLOYD GARRISON.

Boston, February 20, 1834.

TRIAL, &c.

It is a trite remark, that whatever relates to the freedom of the press, is intimately connected with the rights of the people. Every new prosecution for libel, therefore, (however insignificant in itself,) may be viewed as a test, how far that freedom has been restricted by power on the one hand, or perverted by licentiousness on the other.

In France, the press, at various times, has been subjected to the most despotic and malignant censorship, but it has flourished in defiance of tyranny. In a multitude of libellous cases, the publishers of newspapers have almost invariably suffered punishment : yet the people have as promptly reversed the judgment, and given a triumphant acquittal. At the present moment, the spirit of the French periodicals is eminently republican ; it discourses upon the usurpation of the crown, in a style not unworthy of our own revolution, and breathes as freely as in any country on the globe : yea, in the majesty of its strength, it threatens to tread sceptre and throne in the dust.*

It is notorious, that the whole judicial power of England has been directed against the liberty of the press, from Tresilian and Jeffreys, down to the present day. But the struggle has long since ceased to be doubtful. Public opinion has broken every fetter, and prosecutions for libels are now anomalies in law. Perhaps it would not be extravagant to say, that many an English editor, who is suffered to print unmolested, *would be covered with indictments* in this 'land of the free and home of the brave.'

It is true, prosecutions of editors have been comparatively few in this country, from the republican nature of our government, the equity of our laws, and the rights secured to the press by the constitution. Yet whoever has carefully observed the bias given to these cases, must have seen a growing tendency in

* It was not long after this was written, before Charles the Tenth was hurled from his throne, and banished from his kingdom.

many of the courts, to stifle free inquiry, to dishearten every effort of reform, and to intimidate the conductors of newspapers. I know not whether there be any thing inherent in the office of judge that is hostile to liberty ; but of this I am sure, that some of our judges do not entertain an ardent friendship for the press. Possibly this hostility arises from a prudent selfishness—at least, in numerous instances. By denying our right to investigate public measures, or to interrogate men in their official or private capacity, they hope to raise themselves above responsibility and suspicion. Indeed, even now it is almost impossible to impeach any one of their number, though his guilt be as obvious as the sun in heaven.

The following remarks of Junius, addressed to Lord Mansfield, it is to be feared are becoming more and more applicable to our remissness as a people :

'Men are willing enough to take the law upon trust. They rely on the authority of the judges, because they are too indolent to search for information : or, conceiving that there is some mystery in the laws of their country, which lawyers are only qualified to explain, they distrust their judgment, and voluntarily renounce the right of thinking for themselves.'

I would therefore invite the attention of the public, and of editors generally, to the following case of libel, as containing much instruction and interest, as highly illustrative of Maryland justice, (as administered by Nicholas Brice,) and as showing to what extent the liberty of the press is enjoyed in this State. Whether we consider the cause of complaint, or the ground upon which a verdict of guilty was given, the case is calculated to excite surprise, disgust and indignation.

The Baltimore presses are celebrated for their craven spirit, their abject servility, their cormorant selfishness, their stagnant quiescence. The loss of an advertisement, or the withdrawal of a subscriber, is of far greater consequence than the exposure of corruption, or the reform of abuses. In which of the city papers can an intelligent censor gain admittance, if his strictures apply to any thing that exists in the city, county or state ? Yet, since the result of my trial, I ought not to marvel that they carry the fear of his honor judge Brice before their eyes ! or that they think ' the better part of valor is discretion !'

I regret that I could procure no competent stenographer to report this trial. I can only therefore give the facts appertaining thereto, and some hasty comments upon the proceedings, leaving the public to decide how far the determination of the court comports with the creed of the American people, the liberty of the press, or the strict letter of the law.

In the *Genius of Universal Emancipation*, for November 20, 1829, the following article was published under the head of *Black List*. Its insertion, in an undivided form, is necessary, in order that my readers may the better judge of the defectiveness of the indictment.

THE SHIP FRANCIS.

This ship, as I mentioned in our last number, sailed a few weeks since from this port with a cargo of slaves for the New Orleans market. I do not repeat the fact because it is a rare instance of domestic piracy, or because the case was attended with extraordinary circumstances; for the horrible traffic is briskly carried on, and the transportation was effected in the ordinary manner. I merely wish to illustrate New-England humanity and morality. I am resolved to cover with thick infamy all who were concerned in this nefarious business.

I have stated that the ship *Francis* hails from my native place, Newburyport, (Massachusetts,) is commanded by a yankee captain, and owned by a townsman named FRANCIS TODD.

Of captain Nicholas Brown I should have expected better conduct. It is no worse to fit out piratical cruisers, or to engage in the foreign slave trade, than to pursue a similar trade along our own coasts; and the men who have the wickedness to participate therein, for the purpose of heaping up wealth, should be ~~SENTENCED TO SOLITARY CONFINEMENT FOR LIFE~~; ~~they are the enemies of their own species—highway robbers and murderers~~; and their final doom will be, unless they speedily repent, to occupy the lowest depths of perdition. I know that our laws make a distinction in this matter. I know that the man who is allowed to freight his vessel with slaves at home, for a distant market, would be thought worthy of death if he should take a similar freight on the coast of Africa; but I know, too, that this distinction is absurd, and at war with the common sense of mankind, and that God and good men regard it with abhorrence.

I recollect that it was always a mystery in Newburyport, how Mr. Todd contrived to make profitable voyages to New Orleans and other places, when other merchants, with as fair an opportunity to make money, and sending at the same ports at the same time, invariably made fewer successful speculations. The mystery seems to be unravelled. Any man can gather up riches, if he does not care by what means they are obtained.

The *Francis* carried off seventy-five slaves, chained in a narrow space between decks. Captain Brown originally intended to take one hundred and fifty of these unfortunate creatures; but another hard-hearted ship-master underbid him in the price of passage for the remaining moiety. Captain B., I believe, is a mason. Where was his charity or brotherly kindness?

I respectfully request the editor of the Newburyport Herald to copy this article, or publish a statement of the facts contained herein—not for the purpose of giving information to Mr. Todd, for I shall send him a copy of this number, but in order to enlighten the public mind in that quarter.

The information contained in the above article, (i. e. so much of it as relates to the transportation of the slaves,) was derived, indirectly, from captain Brown, and the mate of the *Francis*—the latter a son of Mr. Todd; and directly, from a young gentleman who went as passenger in the vessel to New-Orleans, and who expressed some fears of an insurrection on board but

whose testimony I could not obtain in season to produce at my trial. I sent a copy of the paper to Mr. Todd, according to my promise. Instead of vindicating his conduct in the columns of the *Genius*, and endeavoring to show that my statement was materially false, he entered a civil action against me for injuring 'his good name, fame and reputation,' by publishing 'wicked, scandalous and malicious matter' in relation to himself; estimating damages at five thousand dollars. This action remains undecided.

Next came the following presentment from the Grand Jury :

BALTIMORE CITY COURT, FEBRUARY TERM, 1830.

The Grand Jurors of the State of Maryland, for the body of the City of Baltimore, on their oaths do present, that Benjamin Lundy and William Lloyd Garrison did, in a certain newspaper printed and published in the City of Baltimore, on the 20th of November last, called the *Genius of Universal Emancipation*, publish a gross and malicious libel against Francis Todd and Nicholas Brown.

H. W. EVANS, Foreman.

Witnesses,

HENRY THOMPSON,

JOHN W. THOMPSON.

True copy from the original Presentment.

Test,

WM. MEDCALF, Clerk
Baltimore City Court.

Accordingly, an action was entered by the State of Maryland, against the editors of the *Genius of Universal Emancipation*. The indictment ran thus :

STATE OF MARYLAND—City of Baltimore, TO WIT:

The Jurors of the State of Maryland, for the body of Baltimore, do on their oaths present, that Benjamin Lundy, late of the city aforesaid, yeoman, and William Lloyd Garrison, also late of the city aforesaid, yeoman, contriving and unlawfully, wickedly, and maliciously intending to hurt, injure and vilify one Francis Todd, and to deprive him of his good name, fame and reputation, and to bring him into great contempt, scandal, infamy, and disgrace, on the twentieth day of November, in the year eighteen hundred and twenty-nine, with force and arms, at the city aforesaid, unlawfully, wickedly and maliciously, did print and publish, and cause and procure to be printed and published, in a certain newspaper, then and there entitled the '*Genius of Universal Emancipation*,' a certain communication, under the head of '*Black List*—'*Horrible News, Domestic and Foreign*,' and to which communication the letter '*G.*' was then and there appended, as and for a signature, and which letter referred to some person to the Jurors aforesaid unknown, of and concerning the said Francis Todd, and of and concerning him the said Francis Todd (amongst others) engaged in the Transportation of Slaves from the port of Baltimore to the port of New Orleans, being therefore to be regarded and considered as an enemy to his own species, a highway robber and a murderer; and which communication then and there contained the false, scandalous, and malicious matter and libel following, that is to say: '*The Ship Francis*. This ship, as I' (meaning the said person referred to by the said letter G.) 'mentioned in our last number, sailed a few weeks since from this port,' (meaning the port of Baltimore,) 'with a cargo of slaves for the New Orleans market. I' (still

meaning the said person referred to by the said letter G.) 'do not repeat the fact because it is a rare instance of domestic piracy, or because the case was attended with extraordinary circumstances; for the horrible traffic is briskly carried on, and the transportation was effected in the ordinary manner. I' (still meaning the said person referred to by the said letter G.) 'merely wish to illustrate New-England humanity and morality. I' (again meaning the said person referred to by the said letter G.) 'am resolved to cover with thick infamy all' (meaning, amongst others, the said Francis Todd) 'who were concerned in this nefarious business.' (Thereby meaning the transportation of slaves from the Port of Baltimore to the Port of New Orleans.) 'I' (again meaning the said person referred to by the said letter G.) 'have stated that the ship Francis hails from my native place, Newburyport, (Massachusetts,) is commanded by a Yankee captain, and owned by a townsman, named Francis Todd. Of captain Nicholas Brown I' (still meaning the person referred to by the letter G.) 'should have expected better conduct. It is no worse to fit out piratical cruisers, or to engage in the foreign slave trade, than to pursue a similar trade along our own coasts; and the men who have the wickedness' (meaning that the said Francis Todd, amongst others, had the wickedness) 'to participate therein, for the purpose of heaping up wealth, should be sentenced to solitary confinement for life; and they' (meaning the men who had the wickedness to participate in the transportation of slaves along our own coast, and amongst them including the said Francis Todd) 'are the enemies of their own species—highway robbers and murderers'—(meaning that the said Francis Todd was to be regarded as a highway robber and murderer)—'and their final doom will be, unless they speedily repent, to occupy the lowest depths of perdition'—to the great scandal, damage and disgrace of the said Francis Todd, to the evil example of all others in like manner offending, and against the peace, government and dignity of the State.

(Signed)

THOMAS JENNINGS & R. W. GILL,

Deputies of the Attorney General of Maryland, for Baltimore city.

True copy—Test,

WILLIAM MEDCALF, Clerk.

To the foregoing indictment, a plea of *Not Guilty* was made.

The Jury was then sworn. Witnesses for the State, Henry Thompson, E. K. Deaver, James Lucas, and the Pilot of the Francis.

Counsel for the Prosecution, Jonathan Meredith, Esq. and R. W. Gill, Esq. For the Defendant, Charles Mitchell, Esq.

The libellous matter, (so called,) so far as contained in the indictment, was then read, and the whole article (containing *other matter than that embraced in the indictment*,) was offered to be read to the Jury, in order to show a malicious intent.

The counsel for the Defendant objected to this course, inasmuch as no one was compelled to defend himself against charges *not set forth* in an indictment; otherwise, why so much precision and formality required in the drawing of this instrument? Further, that the Jury might unconsciously derive their impressions of guilt from other passages than those contained in the indictment, which would unquestionably be illegal, if predicated

on any facts as stated in those other passages. Hence the caution observed by courts in permitting such extraneous matter to go to the Jury. He cited several authorities to show, that, in all analogous cases, the *Defendant* was permitted to read material and qualifying parts of the same publication, though not embraced in the indictment; but he challenged the court to cite a single authority, or show a single precedent in the practices of the English or American Courts, that gave such liberty to the *Plaintiff*. He would not say, whether or not the remaining moiety of the article, relative to Mr. Todd, was libellous. Whenever an indictment should be framed upon it, he was ready to argue that point. Suppose that a man is indicted for grand larceny, and the evidence in court failing to convict him, the plaintiff (in order to show that the prisoner is bad enough to commit a theft,) undertakes to prove that on the same night he committed murder? Would not such a course be as extraordinary as irrelevant? The indictment before them contained no libel upon Francis Todd. Upon that indictment alone, the Defendant was to receive a verdict of acquittal or condemnation. He concluded (after a long and learned argument) by protesting against the reading of the whole article, and praying the court to pause ere it allowed such a strange and unwarrantable procedure.

These objections were overruled by the court, who contended that the right of the plaintiff to read extraneous and corroborative matter was as ample as the defendant's. *The whole paper* (signed 'G.') *was then read by the Prosecutor, to prove the malicious intent of the writer!!!*

Henry Thompson was sworn. He had acted as agent for Mr. Todd many years, and knew him to be an estimable man. He [Thompson] contracted for the transportation of the slaves, before consulting Mr. Todd, but immediately wrote to him, stating the conditions on which the contract was made. Mr. Todd, in reply, said he should have preferred another kind of freight; but as freights were dull, times hard, and money scarce, he was satisfied with the bargain [!!!] Articles necessary for the comfort and convenience of the slaves were put on board the vessel. The slaves were purchased by a planter of New-Orleans, named Millighan, of whom Thompson (and also his honor Judge Nicholas Brice) spoke in warm panegyrics. He said Captain Brown was a humane man, and had no doubt that the slaves were kindly treated on the passage.

The Pilot of the *Francis* testified, that the slaves were received on board at *Annapolis*—eighty-eight in number—consisting of men, women, and children; that they were not confined, but suffered to peregrinate about the ship, *ad libitum*;

that they enjoyed the extatics of bliss, and were delighted at the prospect of realizing the pleasures of interminable slavery; that they were provided with shoes, hats, trowsers, petticoats, &c. &c.; and that Captain Brown was the best of ship masters.*

E. K. Deaver was sworn. He had no great relish for law-suits, and did not wish to be put to the torture of a cross-fire. Could not swear that he printed that identical number of the *Genius of Universal Emancipation*. He was not bound to answer interrogatives, and therefore believed it safe not to do so.

James Lucas was sworn. He felt all the embarrassment of his partner. Was certain, however, that they did print this particular paper, and that he [Lucas] delivered it to Henry Thompson, jr. Could not say that Mr. Garrison ever saw it, or read or showed it, or any other containing the alleged libel, to any person, or that he corrected the proof-sheets thereof; although the editors (Lundy & Garrison) generally corrected the proof-sheets of the newspaper.

Here rested the evidence on the part of the State.

Dr. McCullough, of the Custom House, having been sworn, presented the clearance papers of the *Francis*, by which it appeared that she cleared early in October last, from the Port of Baltimore for New-Orleans, *direct*, with an assorted cargo, but no slaves.

A letter from the Collector of the Port of Annapolis was read, and agreed by counsel to be received as if the Collector had sworn to the facts stated therein—he being unable to give his personal attendance at court. It seems that the *Francis* sailed down the bay a few miles to a convenient spot, where she took on board the slaves, and got a *new clearance* for New-Orleans from the Port of Annapolis. Her slave manifest enumerated *eighty-eight* slaves, (instead of seventy-five, as stated in the *Genius of Universal Emancipation*,) of different ages, sexes, and conditions.

No other evidence was offered or deemed necessary on the part of the Defendant, it being admitted that Mr. Todd was the owner of the *Francis*.

The Counsel for the Defendant then rose, and addressed the Jury nearly two hours, in a masterly style. Indignation and shame for the continuance of the accursed traffic in human flesh—sympathy for the poor victims of oppression—love for the cause of universal liberty—kindled his feelings into a blaze. His eloquence 'was a torrent that carried every thing before it.

* The extraordinary zeal which this man evinced in behalf of the prosecutor, drew forth a remark from a spectator, who said in a whisper, that the pilot spoke as if acting under the influence of a ———.

He thundered—he lightened.’ He termed the law of libel a drain through which had circulated every thing that was putrid, vile, and unseemly. It was the last and most successful engine of tyranny ; and had done more to perpetuate public abuses, and to check the march of reform, than any other agent. He showed in what light Congress beheld the slave-trade—that, by one of the laws of that body, it was reprobated as piracy upon mankind; and the detection of an American citizen engaged in it on the coast of Africa, would send him to the gallows—that, by another act of Congress, all transportation of slaves from an American port to the West India islands, or to any foreign port, was prohibited under the penalty of confiscation. True, the domestic trade was tolerated ; simply because it was beyond the legitimate authority of Congress, and came exclusively under the cognizance of individual states ; yet that wise and venerable body, in stamping the seal of infamy upon the former traffic, fixed it as indelibly upon the latter. Distance did not change the principle. It was absurd, it was preposterous, it was wicked to contend, that both were not equally base, abhorrent and disgraceful. He trusted in God that the time was not far distant, when the Legislature would pass a law to that effect : it would be the brightest in the statute books of Maryland. As to the indictment, it was fatally defective in its construction, and contained no libel upon Francis Todd. The matter embraced therein, did not implicate Mr. Todd in the transportation of the slaves, nor charge him with being privy or consenting thereto. It merely stated the fact, that he was the owner of the vessel—nothing more ; and could this, by any ingenuity, be tortured into a libel ? Yet it had been proved that Mr. Todd participated in the business, though he felt some severe twinges of conscience for so doing. Evidence had entirely failed to convict the Defendant of having printed or published, or of having any agency in printing or publishing, or of having written or caused to be written, the obnoxious article. The postulate assumed by the writer ‘ G.’—that the domestic slave trade is as heinous as the foreign, that it is a war upon the human species, that it is murderous and piratical—was certainly not punishable by law. A multitude of good men entertained a similar opinion ; and, unless our country groaned under a thralldom as despotic as that of the Africans, they had a right at any time, publicly or privately, to declare that opinion. It was a general view of the traffic, expressed in general terms. Every Sabbath, the clergy denounced, in no measured language, popular and *legalized* vices—could they also be indicted ? He reverted to the extraordinary license which had been given to the prosecutor, to read

other parts of the publication not contained in the indictment, in order to obtain a verdict of guilty. It was neither *jure humano* nor *jure divino*. It was taking the Defendant by surprise, by giving him no notice to prepare his evidence of the truth of those parts omitted. He passed some flattering encomiums upon the Editors of the *Genius*, and expressed a hope that they would be sustained, not only by the Jury but by their country.

I regret that a defence so learned, eloquent and cogent, cannot be given to the public as it was delivered. I did not take a single note at the trial, and therefore must depend entirely upon my memory. The above is a mere skeleton of one grand, gigantic *whole*. The language is mine; but, I believe, the synopsis is substantially correct.

R. W. Gill, Esq. Deputy Attorney for the State, made a few miscellaneous remarks (in reply to Mr. Mitchell) about the legality of the traffic, the rights of slaveholders, the contentment and good condition of the slaves, the fanaticism and virulence of the editors, (L. & G.) and the necessity of putting a wholesome restraint upon the periodical under consideration. The Jury were to read the whole of the piece under the head of '*Black List*,' (and he gave them a copy of the *Genius* containing it,) and to judge of the malicious intent of the writer.

His honor, Judge Brice, said that the Jury would acquit or convict upon the matter contained in the indictment; at the same time, they were authorised to derive auxiliary aid, in making up their verdict, from the remainder of the article!!!

The Jury retired, and, in about fifteen minutes, returned with a verdict of *Guilty*.

The Counsel for the Defendant then made a motion in arrest of judgment, and for judgment of acquittal, notwithstanding the verdict, and reasons filed—to wit:

BALTIMORE CITY COURT.

STATE OF MARYLAND,
vs.
WILLIAM LLOYD GARRISON }

And now the Defendant prays a new Trial, because the said Verdict is not warranted by the evidence adduced on the part of the State in support of the prosecution; the said evidence being materially variant from the libel set forth in the Indictment, inasmuch as the Indictment professes to set forth the whole communication signed 'G.' and the paper read in evidence to the Jury, shews that material and qualifying parts of the said communication have not been stated in the Indictment, and the Defendant had no notice to prepare his evidence of the truth of that part omitted.

2d. Because it was proved to the Jury, that Francis Todd, named in said Indictment, is a Citizen of and a resident in the State of Massachusetts, and was not in the State of Maryland when the said publication was made, nor has been in the said State of Maryland since.

3d. Because there was no evidence before the Court or Jury, that the Defendant printed or published, or had any agency in the printing or publishing this identical paper read in evidence to the Jury; but the only evidence was by Lucas & Deaver, that Lundy & Garrison were the proprietors of the Newspaper called the 'Genius of Universal Emancipation,' and that Lucas & Deaver were employed by contract with the proprietors to print that Newspaper so entitled. That they did print this particular paper, and Mr. Lucas delivered it to Mr. Thompson, at Lucas & Deaver's printing office; but neither of the Witnesses knew, or could say, that Mr. Garrison ever saw it, or read or showed it, or any other containing this libel complained of, to any person, or that he corrected the proof sheets thereof, although the Editors (Lundy & Garrison) generally corrected the proof sheets of the Newspaper above mentioned;—all which objections above mentioned were taken before the said verdict was rendered, and entitled the Defendant in Law to the Verdict.

And the Defendant further prays the Court to arrest the Judgment in this case, because the matters charged in the said Indictment do not amount in Law to a Libel upon Francis Todd, punishable by the laws of this State. And also because the Innuendos set forth in the said Indictment are not warranted by the communication therein set forth, but vary and enlarge the import of the language of that communication.

And also because there is no averment, or colloquium, in the said Indictment, that Francis Todd was the owner of any vessel, in fact, or had fitted out or employed any vessel for the Transportation of Slaves along our coast, or from one part of the United States to another.

And also because the Epithets stated in the said Indictment, taken in connexion with the subject matter, impute no crime to Francis Todd, and reflect no disgrace or scandal on his character, but are mere opinions upon the general nature and moral aspect of the species of traffic there reprobated, which the Defendant had a right to express, as the Proprietor and Editor of a Free Press.

WM. LLOYD GARRISON,
by CHARLES MITCHELL.

True Copy—Test,

WM. MEDCALF, Clerk
Baltimore City Court.

March 1, 1830.

I invite the attention of the public to the foregoing reasons, as putting the case in a plain, intelligible form, as exposing the defectiveness of the indictment, and the arbitrary conduct of the court. The motion was overruled; instead of which the court advised another to be made for a new trial. The motions in arrest of judgment, and for a new trial, were powerfully argued by the counsel for the Defendant, but also overruled, and judgment given on the verdict. Sentence \$50 fine, and costs of prosecution.

The facts are before the public. The case, I believe, is important. As for the law (if it be law) which has convicted me, I regard it as a burlesque upon the constitution—as pitiful as it is abhorrent and atrocious. It affords a fresh illustration of the sentiment of an able writer, that '*of all injustice, that is the greatest which goes under the name of Law; and of all sorts of tyranny, the forcing of the letter of the Law against the equity, is the most insupportable.*' Is it supposed by Judge Brice, that

his frowns can intimidate me, or his sentence stifle my voice, on the subject of African oppression? He does not know me. So long as a good Providence gives me strength and intellect, I will not cease to declare, that the existence of slavery in this country is a foul reproach to the American name; nor will I hesitate to proclaim the guilt of kidnappers, slave abettors, or slave owners, wheresoever they may reside, or however high they may be exalted. I am only in the *alphabet* of my task; time shall perfect a useful work. It is my shame that I have done so little for the people of color; yea, before God, I *feel* humbled that my feelings are so cold, and my language so weak. A few white victims must be sacrificed to open the eyes of this nation, and to show the tyranny of our laws. I expect, and am willing to be persecuted, imprisoned, and bound, for advocating the rights of my colored countrymen; and I should deserve to be a slave myself, if I shrunk from that duty or danger.

To show the vindictiveness of the prosecutor, in the present instance, I would state, that, not content with punishing the *author* of the 'libellous' article in the *Genius*, he has also brought a suit against my philanthropic friend Lundy, on the same ground. This is a grief to me—not so, however, to him. The court was aware, that he was *out of the State* when I published my strictures upon Mr. Todd, and that he never saw them until they appeared in print---and yet another prosecution!

Deeply as I am indebted to my editorial brethren throughout the country, for their kind expressions toward me, I solicit them to publish the facts growing out of this trial, and to make such comments as may seem expedient. I think it will appear, that the freedom of the press has been invaded, and that power, and not justice, has convicted me; and I appeal to the people for a change of the verdict. Certainly, the fact would astonish all Europe, if it were trumpeted in that quarter, that an *American citizen lies incarcerated in prison, for having denounced slavery, and its abettors, in his own country!*

WILLIAM LLOYD GARRISON.

Baltimore Jail, May 1, 1830.

SONNETS,

INSCRIBED UPON THE WALLS OF MY PRISON.

THE FREE MIND.

High walls, and huge, the body may confine,
And iron grates obstruct the prisoner's gaze,
And massive bolts may baffle his design,
And vigilant keepers watch his devious ways:
Yet scorns th' immortal mind this base control!
No chains can bind it, and no cell enclose:
Swifter than light, it flies from pole to pole,
And in a flash from earth to heaven it goes!
It leaps from mount to mount—from vale to vale
It wanders, plucking honeyed fruits and flowers;
It visits home, to hear the fire-side tale,
Or in sweet converse pass the joyous hours.
'Tis up before the sun, roaming afar,
And in its watches yearies every star!

TO SLEEP.

(Written the next morning after my incarceration.)

Thou art no fawning sycophant, sweet Sleep!
Who turn'st away whenever fortune frowns,
Leaving the stricken wretch alone to weep,
And curse his former opulent renown:
O, no! but here—even to this desolate place—
Thou com'st, as 'twere a palace trimm'd with gold;
Its architecture of Corinthian grace;
Its gorgeous pageants dazzling to behold:—
No prison walls nor bolts can thee affright—
Where dwelleth innocence, there thou art found!
How pleasant, how sincere wast thou last night!
What blissful dreams my morning slumber crowned!
Health-giving Sleep! than mine a nobler verse
Must to the world thy matchless worth rehearse.

TO THE VICTIM OF TYRANNY,

Who may hereafter be imprisoned in this cell.

Pris'ner! within these narrow walls close pent,—
Guiltless of horrid crime or trivial wrong,—
Bear nobly up against thy punishment,
And in thy innocence be tall and strong!
Perchance thy fault was love to all mankind;
Thou did'st oppose some vile, oppressive law;
Or strive all human fetters to unbind;
Or would'st not bear the implements of war:—
What then? Dost thou so soon repent the deed?
A martyr's crown is richer than a king's!
Think it an honor with thy Lord to bleed,
And glory midst th' intensest sufferings!
Though beat—imprisoned—put to open shame—
Time shall embalm and magnify thy name.

APPENDIX.

Mr. Todd, still implacable in his feelings, and finding by the issue of the suit instituted against me by the State of Maryland, that he might push his own, without any risk of being defeated, now came down upon me for damages to his character to the amount of FIVE THOUSAND DOLLARS. The trial took place after my release from prison, and during my absence from the State. Verdict \$1000. The following remarks upon it were published in the *Liberator* of January 15, 1831 : they explain the cause of my refusal to make any defence before the Court.

‘ In the beginning I would premise, that, in advertising the conduct of Mr. Todd and Capt. Brown in the affair of the *Francis*, I was actuated by no personal hostility. If any of my warmest friends, or any other of my fellow-townsmen, had been implicated in this or a similar transaction, they would have felt the same scorpion lash. In the publication of my strictures, I was governed by the following motives :—1. A sense of duty, as an advocate of freedom, and a hater of tyranny and of all its abettors. 2. A desire to evince to the southern people, that, in opposing slavery, I disregarded all sectional feelings ; and that a New-England abettor was as liable to reprehension as a Maryland slaveholder. 3. A belief that the publication would ever afterward deter Mr. Todd from venturing into the domestic slave-trade ; and that it would be a rod over the backs of New-England merchants generally.

Having proved, on my first trial, my main charges—viz. that the *Francis* carried away the slaves, and even 13 more than I had stated—that the ship was owned by Mr. Todd—and that he was privy to the transaction—I determined to incur no expense, and to give myself no trouble, in relation to the second suit. I knew that my judges must be men tainted with the leprosy of oppression, with whom it would be useless to contend—men, morally incapable of giving an impartial verdict, from the very nature of their pursuit. And here let me observe, *en passant*, that, though I do not say that a *packed jury* has convicted me ; yet, knowing as I do how juries are selected in Baltimore, and recognizing also some of my condemners, I consider my trial as having had all the formality, but none of the substance, of justice.

In the report of the trial, it is stated that ‘ the Plaintiff [Mr. Todd] was not consulted, nor apprised of the destination or employment of the ship, until she was about to sail.’

Capt. Brown, in his affidavit, also declares, that Mr. Todd 'could not have known the transaction, until about the time of the sailing of the ship from Baltimore.'

This mode of expression, 'about the time,' is too indefinite to screen Mr. Todd from blame; it amounts to nothing but tergiversation. I challenge his agent in Baltimore, or Capt. Brown, to testify, that he could not have seasonably prevented the transportation by a prompt and peremptory decision. It was stated, on my first trial, by Mr. Henry Thompson, (the agent,) that he wrote to Mr. Todd concerning the business; and that Mr. Todd ratified the contract at the expense of some slight twinges of conscience. Mr. Thompson and Captain Brown, therefore, are at direct variance in their testimony. I leave them to reconcile these contradictions, as ingenuity or interest may suggest.

If Mr. Todd had been innocent, he would not have instantaneously kindled into a passion, and presented me as a libeller to a jury whom he suspected of cherishing hostile feelings toward the Genius of Universal Emancipation. Charitably believing that I had been unwittingly led into error, he would have corresponded with me on the subject, and demanded a public apology for the injury inflicted upon his character; and I would have promptly made that apology—yea, upon my bended knees. For I confidently assert, that no individual who knows me personally—not even the accused himself—believes that I was instigated by malice, in the publication of my strictures. *I make no other charge against him.* If I have enemies, I forgive them—I am the enemy of no man. My memory can no more retain the impression of anger, hatred or revenge, than the ocean the track of its monsters.

Mr. Todd, as a high-minded man, should have been satisfied with the result of the former trial. The second suit betrays the meanness of avarice, and the littleness of revenge. It was not so much a desire to clear his reputation, as to gain a few dollars or gratify a vindictive spirit, that induced the prosecution.

It is averred, that, 'after his [Garrison's] conviction in the City Court, he was distinctly informed through his Counsel, that as Mr. Todd had no vindictive feelings to gratify, the suit would be withdrawn, if a proper apology and recantation of the calumny were put upon record.' This is true; and it is also true, that I refused to comply with the demand, because I never will apologise for telling the truth.

With regard to the truth of my allegation, that chains were used on board the Francis, it could not be substantiated except by summoning the crew. Generally speaking, irons are inseparable from the slave trade; nor is this usage a grievance in the

eye of the law, but a preservative right on the part of owners and masters of vessels engaged in the perilous traffic. Whether the slaves, in this instance, were confined or not, was immaterial to the formation of a verdict. I am now disposed to believe, however, that no chains were used on board of the *Francis*.

It is certainly true, as stated in my 'libellous' article, that Mr. Todd has been remarkably successful in his commercial speculations; but I do not know that he has ever been guilty of carrying slaves in his vessels, excepting in this particular instance. He says that this was his first cargo of souls, and Capt. Brown corroborates his assertion; and I am almost as sure that it will be his last.

Leaving Mr. Todd, (to his relief and my own,) my business is next with Capt. Brown and his fanciful affidavit. He says 'he received on board of the *Francis* eighty-eight black *passengers*'—a very delicate substitute for *slaves*. These *passengers*, he concedes, belonged to a 'new master, named Milligan, who was present at the time of their embarkation, and assured them that they were not to be sold again at New Orleans—but that he intended them all for his own estate.' No doubt this trader in souls was fruitful in promises; but what security had the slaves for their fulfilment? Nothing but the mere say-so of their unprincipled buyer; or, to borrow the courtly language of Capt. Brown, nothing but 'the *honor* and *integrity* of Mr. Milligan.'

I do not care whether the slaves were bought expressly for the New Orleans market, or for Milligan's own use; it does not, in my estimation, alter the aspect of the affair. If they were to be sold, they might get a better—they might get a worse master than Milligan. They are disposable property; and he who bought them to make money, would assuredly sell them for the same reason, whenever an opportunity presented itself. To say that they were not intended for public sale, is a contemptible quibble. Of this I was aware—that they were slaves—the creatures of an absolute despotism; that they were human beings, entitled to all the privileges and enjoyments of liberty; and that no man could assist in their oppression without participating in the guilt of the purchase. I must ever regret that New-England men were engaged in the inhuman traffic, but not that I promptly exposed them to public censure.

To show how skilfully Capt. Brown can reason, I make a final extract from his affidavit. 'Let it be remembered,' he says, 'that he was not the cause of their bondage, but that he has actually relieved their condition, in some degree, by carrying them to a climate much more congenial to their nature'— 'he considers his act in carrying these people away as one of the best of his life'!!

Here is a fine exhibition of reason and humanity ! The domestic slave trade, therefore, is in the highest degree benevolent !!! The same kind of logic might pacify the conscience of Capt. Brown were he on the coast of Africa, and induce him to engage in the foreign slave trade.

The decision of the Court upon my trial forms the paradox of paradoxes. The law says, that the domestic slave trade is a legal business, and no more criminal than the most innocent mechanical or commercial pursuit ; and, therefore, that any man may honestly engage in it. Yet if I charge an individual with following it, either occasionally or regularly, I am guilty of ' a gross and malicious libel '—of ' defaming his good name, fame and reputation '—of ' foul calumny and base inuendo '—with sundry other law phrases, as set forth in an indictment ! So much for the consistency of the law ! So much for the equity of the Court ! The trial, in fact, was not to ascertain whether my charges were true, but whether they contained any thing disreputable to the character of the accused ; and the verdict does not implicate or condemn me, but the law.

The hat-making business, for instance, is an authorised trade. Suppose I were to accuse a man of making hats, and should believe, and publicly declare as my opinion, that every hat-maker ought to be imprisoned for life : would this be libellous ? It is my belief, that every distiller or vender of ardent spirits is a poisoner of the health and morals of community ; but have I not a right to express this belief, without subjection to fine and imprisonment ? I believe, moreover, that every man who kills another, either in a duel or battle, is, in the eye of God, guilty of his blood ; but is it criminal or punishable to cherish or avow such an opinion ? What is freedom of thought, or freedom of expression ? It is my right—and no body of men can legally deprive me of it—to interrogate the moral aspect and public utility of every pursuit or traffic. True, my views may be ridiculous or fanatical ; but they may also be just and benevolent. Free inquiry is the essence, the life-blood of liberty ; and they who deny men the right to use it, are the enemies of the republic.

In conclusion, I would remark—that, on my first trial, his honor Judge Brice informed my counsel that if the case had been submitted to the Court, instead of the jury, it would have been thrown out as containing nothing actionable.

The facts are now before the public. It is for them to judge, whether imprisonment and a fine of *one thousand dollars* (giving the worst construction to my motives and language) are not excessive punishment ; and whether, in the publication of my strictures, I exceeded the freedom of the press, or the legitimate province of an independent editor.'

[From the Massachusetts Journal & Tribune.]

We have read a report of the case of Francis Todd, of Newburyport, vs W. L. Garrison, late editor of a Baltimore anti-slavery paper, for a libel, and we cannot but think the verdict of the jury doubtful in law, or if legal, unreasonable in point of damages. Mr. Garrison edited a paper, devoted, we believe, from the best motives to the best of purposes. The charge that he made against Mr. Todd was, that he transported in his vessel a cargo of slaves from Maryland to Louisiana, there to be sold in the market, and that they, or a part of them, were in irons, or were put in irons during the passage, and were otherwise treated harshly. For this, Mr. Garrison declared that he would cover Mr. Todd 'with thick infamy.' Mr. G. also *inferred* that Mr. T. had made his property by carrying such freights.

We presume that the main fact of freighting a ship with negroes from one port of the United States to another, would be no libel, even if *false*, because this is a legal and usual business, with which it is no more libellous to charge a man, than to say that he had caught a freight of fish and carried them to market. The main fact, however, was admitted to be true; but it was denied that the slaves were carried *to be sold*, they being already sold to a humane master, [Mr. Milligan.] It was also denied that the slaves were ironed or otherwise harshly treated. These denials not having been rejoined to by the defendant, and having in fact been supported by the evidence of the captain, and one or two others, must be taken as correct, and Mr. Garrison's statements as erroneous, in the subordinate particulars of the irons, the harsh treatment, and intended sale at New-Orleans.

It does seem to us, that to say a man puts a slave in irons, whips him or sells him, is not, *prima facie*, a libel, even though false; because these are lawful acts for slave-owners to do, and they are done every day. If the writing state that such acts were done without cause, or to an unreasonable extent where there was cause, such writing, if untrue, might be a libel.

At all events, it was and is evident that Mr. Garrison's intent and aim was to direct the force of public opinion against the sale and bondage of human beings 'born free and equal,' (as a certain *Declaration* says,) and against all persons, *particularly Yankees*, who in any way co-operate in it, or profit by it. In so doing, he attacked the *laws* more than he did Mr. Todd, or at least equally with him, for he charged Mr. T. with nothing which the laws of any State or of the United States do not allow under certain circumstances, and no circumstances whatso-

ever were stated ; thus leaving the case open for the reader and the court to suppose justifiable as readily as unjustifiable cause. Here the maxim, that every thing is to be construed in the *milder sense*, was applicable. Mr. Garrison had a perfect right, and in our opinion deserves praise for 'covering with infamy,' as 'thick' as he could, any slave dealer, slave owner, (*voluntarily* becoming or remaining such,) or slave agent or driver in the world. All the infamy which he could heap upon them on the general grounds of violating the laws of God and nature, and justice and humanity, in trading in human flesh, or putting men in bondage, or holding them there longer than is absolutely necessary, was and is just, lawful, praiseworthy and profitable to the Commonwealth, and no libel at all ; and we doubt very much whether the particular allegations of *putting in irons, treating harshly, and carrying to market*, are in themselves libellous, though false.

[From the Genius of Universal Emancipation.]

Garrison's Second Trial.—The public will be surprised to learn, that the civil suit, instituted by F. Todd, against W. L. Garrison, has resulted in a verdict for the plaintiff of *One Thousand Dollars damages !!!*

A statement of the proceedings, in this case recently appeared in the *Baltimore Gazette*, and is copied below. The whole is *ex parte*, in the extreme. The defendant was absent at the time of the trial ; though he had waited long, to attend it, before he left Baltimore. He confided the business to an attorney who, it appears, *made no defence !* Not even a single witness was examined !! Had a proper defence been made, a different result might have been calculated on. Yet it is doubtful whether a set of men could have been found upon earth, that would have given *such a verdict* as this jury has done. In order that their deeds may be handed down to posterity, and, to use the language of the poet, their names be 'damned to everlasting fame,' they are here recorded, as officially furnished by an officer of the Court, viz :

Daniel W. Crocker,	Stewart Brown,
Samuel D. Walker,	George A. Hughes,
William H. Beatty,	Andrew Crawford,
John Franciscus,	Robert Hewitt,
George M'Dowell,	James W. Collins,
George A. Vonspreckelson,	John Walsh.

Before closing this article, I will observe, that the late Convention of the Manumission Society of North Carolina, unani-

mously adopted the report of a Committee appointed to investigate the subject, giving it as the opinion of that intelligent and philanthropic body, that the part of the article which our Courts and Juries have made out to be so exceedingly offensive, *contained nothing of a libellous nature*. Many others well informed and learned in the law, have expressed a similar opinion.

'The Committee to whom was referred the communication from the Chair, report,

1. That it is the opinion of your committee, that nothing libellous was contained in the article for which William L. Garrison was indicted and convicted.

2. That Mr. Garrison did not surpass that liberty which is guaranteed to the press by the constitution of the United States.

3. Your committee recommend that the Association enter their protest against the illegal and unconstitutional decision in Garrison's case.

4. That the communication entire be published in the *Greenborough Patriot*.'

[Extract of a letter to the Editor.]

Mr. Lundy—Amidst the trials and persecution which surround you, if a word of encouragement from a distant quarter will cheer you, we give it with all our hearts. The unjust sentence against your friend, and our friend, and the friend of humanity, (Mr. Garrison,) calls for the expression of our sympathy—for the loud and rebuking voice of public opinion—and for the more vigorous and bold exertions of every friend to liberty. We would say to brother Garrison, that 'the blood of martyrs is the seed of the Church,'—the death of patriots, the life of their country—the cruelty of tyrants, their own destruction.

'Patriots have toiled, and in their country's cause bled nobly. And their deeds, as they deserve, receive proud recompense. But fairer wreaths are due, though seldom paid, to him who, posted at the shrine of TRUTH, has fallen in her defence.'

We can only point you and your ardent fellow laborer to a reward 'above,'—to the cheering voice of conscience—to the hope—yes, the full assurance of hope that the cause you have espoused is the cause of *truth* and righteousness, and will prevail. Every yoke must be *broken*. It was cheering, indeed, to see your paper in the very midst of oppression and cruelty—an engine upon the tower, overlooking the whole field of cruelty—playing with energy upon every secret hiding place of the enemy—bringing to light the hidden things of darkness—and rolling on the stupid ears of oppression, the tingling accents of guilt—bloodstained guilt—guilt rising to heaven, and pleading

even at the mercy seat for vengeance. And we say, speak on ; —hold not your peace—not ‘till your voice is lost in death.’ Israel did not understand, at first, that God would deliver them by the hand of Moses—and for forty years longer bore the yoke : We must bear the curse of slavery longer.—*Idem*.

[From the Newark Monitor of Dec. 21, 1830.]

Mr. Garrison, the editor of the *Genius of Universal Emancipation*, has been condemned in Baltimore to pay a thousand dollars damages for the free expression of his honest indignation at the conduct of a slave carrier from Baltimore to New-Orleans. The expressions of Mr. Garrison were not measured with cool discretion, but they grew out of great provocation. I sympathise with him ; I am willing, if he must pay the damages, to deny myself one dollar toward it, provided only that one thousand others will do the like. To come down upon him with such damages, in a case where virtue and humanity were exasperated to call hard names, does not suit my notions. One dollar and the costs would have been enough to satisfy justice. If it must be paid, let a thousand men foot the damages.

Dec. 11, 1830.

MILLS.

[From Poulson's Philadelphia American Daily Advertiser.]

Liberty and Equality.—At this time, when our whole nation is rejoicing over the triumph obtained on the other side of the water, in favor of the liberty of the press, will it be believed, that, at this very moment, attempts are making in Baltimore to punish, by a heavy fine, a citizen of the United States, for some remarks made by him whilst editor of a paper devoted to humanity and freedom ? He related some facts, touching a legalized traffic in *human flesh and blood* ; and because he spoke of the transaction in a manner becoming a *freeman*, an American, a republican *in principle*, and not merely so in name, *he was imprisoned* ; and old Shylock, not satisfied, is still persecuting him ‘for the pound of flesh.’

If these kinds of prosecutions are to be tolerated, in this enlightened age and in this ‘land of liberty,’ then farewell to all our rights—civil, religious, and political. Americans ! look to it ! Something ought to be done to nip this spirit of persecution in the bud, or else in addition to the groans, chains and scourges of the Africans, we may have fire and faggots for such of us as dare to raise our voices against cruelty and oppression of any kind.

AMERICANUS.